IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.13101 of 1997

Dated: 19-01-2007

Between:

1. Chanda Bapu, s/o Bhoomaiah,
   aged about 42 years, Business,
   r/o H.No.6-5-245, Gandhi Road, Karimnagar and another.

... Petitioners

and

1. The Government of Andhra Pradesh,
   rep. by its Secretary, Municipal Administration Department,
   Secretariat Buildings, Saifabad,
   Hyderabad and another.

... Respondents

ORDER:

This petition is filed seeking *mandamus* declaring the action of the second respondent in not granting permission within the stipulated time under law and causing obstruction to the construction of the petitioners in the lands measuring 133.33

square yards and 66.66 square yards respectively in Sy.No.1482 situated at Gandhi Nagar, Karimnagar, as illegal and arbitrary and consequently direct the second respondent to treat that the petitioners have obtained deemed permission under Section 214 of the A.P. Municipalities Act,1965
(for short, 'the Act').

2. It is the case of the petitioners that first petitioner purchased an extent of 133.33 square yards and second petitioner purchased an extent of 66.66 square yards of land out of Sy.No.1482, situated at Gandhi Road, Karimnagar from one Dasari Vijaya, under two registered sale deeds dated 12-10-1995 and 08-11-1995 respectively. It is also the case of the petitioners that with a view to construct houses, they presented applications to the respondents seeking permission and the second respondent approved their building plans and permitted them to construct houses by order dated 29-03-1996 and as per the said letter, the construction has to be completed within a period of one year i.e. upto 28-03-1997. According to petitioners,
for obvious reasons, they could not construct the buildings and hence, they again sought for permission to construct buildings by paying the necessary permission fee on 17-04-1997, however, no permission was accorded and thereafter petitioners commenced the construction work. It is stated that as the respondent authorities obstructed the said construction, they filed the present writ petition.

3. Section 214 of the Act clearly states that the competent authority shall pass appropriate order as and when he receives the plans for construction of building within a period of sixty days,

failing which there is a deeming provision. According to which it shall be presumed that the permission is accorded.

4. In the instant case, admittedly applications of the petitioners seeking permission is dated 17-04-1997 and within the period of sixty days, as stipulated in the provision of law, no orders were passed and hence, it shall for all purposes be presumed that the permission is accorded. Hence, the alleged obstruction by the second respondent authority and his men on 21-06-1997 definitely can be said to be illegal. Further, this Court on 08-07-1997 in W.P.M.P.No.15773 of 1997 directed the second respondent to allow the petitioners to proceed with the construction in their respective lands provided the construction is made strictly in accordance with the plan submitted by them and further the construction is not contrary to or in violation of Building Rules, pending further orders. It is brought to the notice of this Court that in the light of the said order, the petitioners have completed the construction work and they have been comfortably residing in the said houses.

5. In the light of the same, this Court is of the view that it is deemed that the plans for construction of the respective houses of the petitioners have been accorded and accordingly the obstruction by the authorities is definitely contrary to the established principles of law.

6. Accordingly, the writ petition is allowed. No costs.

However, it is made clear that if there are any irregularities in the construction made by the petitioners, it is always open to the authorities to proceed against them, in accordance with law.

JUSTICE GOPALAKRISHNA TAMADA

Dt.19-01-2007
GLV